

Message Text

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ORIGIN OES-07

INFO OCT-01 EUR-12 ISO-00 DOEE-00 NSCE-00 ACDA-12
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SOE-02 DODE-00 DOE-11 SS-15 SP-02 PM-05 COME-00
SSO-00 INRE-00 /106 R

DRAFTED BY OES/NET/NEP:W.MOFFITT:BJE
APPROVED BY OES/NET:L.NOSENZO
L/N:R.SLOAN
EUR/EE:S.FROMOWITZ
OES/NET/NEP:R.DEMING
ACDA:D.RUST
DOE:H.BENGELSDORF
DOE:P.BRUSH

-----116205 110108Z /15
O R 110011Z PEB 78
FM SECSTATE WASHDC
TO AMEMBASSY BELGRADE IMMEDIATE
INFO AMEMBASSY VIENNA

C O N F I D E N T I A L STATE 036542

USIAEA

E.O. 11652: GDS

TAGS: PARM, ENRG, YO

SUBJECT: NUCLEAR FUEL LICENSE FOR KRSKO: THE INDIAN FORMULA

REF: A) BELGRADE 896 B) BELGRADE 1001

1. DEPARTMENT APPRECIATES EMBASSY'S EFFORTS AT RESOLVING
KRSKO FUEL LICENSE PROBLEM AND SUGGESTION THAT WE EXPRESS
WILLINGNESS TO CONSIDER ACCEPTING FORMULATION SIMILAR TO
EXISTING US-GOI BILATERAL NUCLEAR COOPERATION AGREEMENT.
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HOWEVER, FOR REASONS SET FORTH BELOW WE DO NOT BELIEVE IT
WOULD BE USEFUL AT THIS POINT TO PURSUE THIS PROPOSED SOLU-
TION WITH THE GOY, PARTICULARLY ON KEY ISSUE OF REPROCESS-
ING. ON THE OTHER HAND, IF IAEA AGREEMENT AMENDMENT
OPTION IS NOT CHOSEN, WE WOULD BE WILLING TO ACCEPT FORMU-
LATIONS PROPOSED IN PARA 6 SECTIONS A AND C OF REFTTEL A

WITH MINOR CHANGES ON EXCLUSIVE USE OF US ORIGIN MATERIAL IN KRSKO REACTOR AND US CONSENT OVER ANY RETRANSFER OF EQUIPMENT OR MATERIAL RESPECTIVELY. THEREFORE, EMBASSY SHOULD NOT RAISE "INDIAN FORMULATION" WITH KLJUN. IF SUBJECT IS BROACHED BY KLJUN, EMBASSY SHOULD NEITHER GIVE ANY ENCOURAGEMENT THAT THIS MAY BE POSSIBLE SOLUTION NOR DISCUSS FOLLOWING RATIONALE FOR NOT ADOPTING THIS FORMULATION.

2. EMBASSY'S INTERPRETATION OF ARTICLE II, SECTION E, OF US-GOI AGREEMENT CONTAINED IN PARA 3 OF REFTTEL IS INCORRECT. THIS SECTION PROVIDES FOR REPROCESSING OF U.S. ORIGIN SPENT FUEL AT INDIAN FACILITIES UPON A "JOINT DETERMINATION" OF THE PARTIES THAT THE PROVISIONS OF ARTICLE VI (SAFEGUARDS) OF THE AGREEMENT MAY BE EFFECTIVELY APPLIED. ARTICLE VI OF THE AGREEMENT IS CURRENTLY SUSPENDED IN FAVOR OF US-INDIA-IAEA SAFEGUARDS AGREEMENT. THE US HAS INFORMED THE GOI THAT IT IS HIGHLY UNLIKELY THAT WE WOULD MAKE SUCH A DETERMINATION IN THE FORESEEABLE FUTURE. SUCH A DETERMINATION (IF MADE) WOULD NOT BE BASED SOLELY ON A PEACEFUL USES GUARANTEE BUT RATHER ON ALL PROVISIONS OF ARTICLE VI OR IAEA SAFEGUARDS TRILATERAL.

3. LANGUAGE REGARDING U.S. CONTROLS OVER REPROCESSING IDENTICAL TO THAT IN THE INDIAN AGREEMENT IS CONTAINED IN THE US-JAPAN AGREEMENT, AND JAPAN, IN THE CASE OF TOKAI, RECOGNIZED THAT THIS PROVISION GIVES U.S. A BLANKET VETO ON CONFIDENTIAL

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REPROCESSING OF U.S. ORIGIN MATERIAL.

4. THE INDIAN LANGUAGE ON REPROCESSING (DRAFTED IN 1963) DOES NOT ADEQUATELY REFLECT U.S. POLICY IN 1978. INDEED, AS YOU WILL NOTE IN OTHER AGREEMENTS SIGNED IN EARLY 1970'S (POUCHED TO YOU), THE SECTIONS ON REPROCESSING WERE SIGNIFICANTLY STRENGTHENED TO INCORPORATE A REQUIREMENT THAT REPROCESSING FACILITIES BE ACCEPTABLE TO BOTH PARTIES IN ADDITION TO OR INSTEAD OF THE JOINT DETERMINATION ON SAFEGUARDABILITY.

5. IF THE U.S. HAD AN EXISTING AGREEMENT WITH YUGOSLAVIA WHICH INCORPORATED THE INDIAN LANGUAGE ON REPROCESSING AND RETRANSFER, IT IS LIKELY THAT WE WOULD BE PREPARED TO MAKE A FAVORABLE RECOMMENDATION ON THE KRSKO FUEL EXPORT ON THE GROUNDS THAT ALL OF THE IMMEDIATE CRITERIA UNDER THE NON-PROLIFERATION LEGISLATION HAD BEEN MET. SINCE THE EXISTING US-GOY-IAEA AGREEMENTS ARE DEFICIENT IN THESE TWO KEY AREAS, WE ARE SEEKING ADDITIONAL ASSURANCES FROM THE GOY. IN THIS CONNECTION THE NEW NON-PROLIFERATION LAW WILL REQUIRE THAT WE OBTAIN IN NEW AND AMENDED AGREEMENTS EX-

PLICIT APPROVAL RIGHTS OVER REPROCESSING AND RETRANSFER
(AS OPPOSED TO THE IMPLICIT RIGHT OF CONSENT ON REPROCESSIN
NOW CONTAINED IN THE US-GOI AGREEMENT AMONG OTHERS).
MOREOVER, AS EMBASSY AWARE, PENDING LAW WILL REQUIRE IN
ANY NEW AGREEMENTS REPROCESSING APPROVAL RIGHTS EVEN OVER
NON-US FUEL IRRADIATED IN U.S. SUPPLIED REACTOR. THEREFORE
ANY WILLINGNESS ON OUR PART NOW TO ACCEPT SOMETHING AP-
PROACHING THE INDIAN LANGUAGE WOULD BE COUNTERPRODUCTIVE
SINCE, FOLLOWING ENACTMENT OF THE LEGISLATION, WE WOULD BE
FORCED TO COME BACK TO THE GOY FOR MORE EXPLICIT ASSURANCES

PARTICULARLY WHEN WE ANTICIPATE CONTINUING AND EXPANDING
OUR NUCLEAR COOPERATIVE RELATIONSHIP WITH YUGOSLAVIA.
IN THIS CONNECTION WE ALSO NOTE THAT KLJUN HAS EXPRESSED
HIS DESIRE FOR A LONG TERM RESOLUTION TO THE ISSUE. AN
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AGREEMENT ON MORE EXPLICIT ASSURANCES THAN THOSE CONTAINED
IN OUR FIFTEEN YEAR OLD ACCORD WITH INDIA WOULD THEREFORE
APPEAR TO BE IN INTEREST OF US-GOY RELATIONS AS WELL AS IN
LINE WITH ADMINISTRATION POLICY.

6. RATHER THAN CONTINUING TO PURSUE THE INDIAN FORMULATION
WE WISH TO EMPHASIZE TO YOU THE MORE COMPARABLE SITUATION
TO THE PRESENT US-GOY NEGOTIATIONS--THE PROPOSED US-IRAN
AGREEMENT. BOTH YUGOSLAVIA AND IRAN HAVE URGENT ENERGY
REQUIREMENTS, ARE NPT PARTIES, AND STRONGLY SUPPORT NON-
PROLIFERATION PRINCIPLES. US POSITION VIS-A-VIS IRAN ON
PROVISIONS FOR CONSENT TO REPROCESSING/RETRANSFER AND
SPENT FUEL DISPOSITION IS IDENTICAL TO THE APPROACH BEING
TAKEN WITH GOY.

7. IN VIEW OF GOY ACCEPTANCE OF FEBRUARY 16-18 DATES FOR
BELGRADE NEGOTIATIONS, NOSENZO AND U.S. TEAM WILL BE PRE-
PARED TO EXPLAIN TO KLJUN WHAT WE ARE DOING WITH OTHER
COUNTRIES AND TO WORK OUT A SOLUTION WHICH IS NON-DIS-
CRIMINATORY TO YUGOSLAVIA. FURTHERMORE, RECENT PASSAGE OF
NUCLEAR EXPORT BILL BY CONGRESS (SEE STATE 35229) SHOULD
HELP TO REDUCE YUGOSLAV UNCERTAINTIES ABOUT U.S. POLICY.

8. RE PARA 2 OF REFTTEL B, EMBASSY MAY ADVISE KLJUN THAT
SENATE FLOOR AMENDMENTS TO NON-PROLIFERATION LEGISLATION
DID NOT AFFECT IMMEDIATE EXPORT LICENSING CRITERIA AS SET
FORTH IN S.897. CRITERIA FOR NEW AND AMENDED AGREEMENTS
ALSO REMAINS AS SET FORTH IN S.897. VANCE

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